IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6999 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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URMILABEN I DESAI & 1 - Petitioner(s)
Versus
DIST PRIMARY EDUCTION OFFICER & 5 - Respondent(s)

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Appearance :

MR KB PUJARA for Petitioner(s) : 1 - 2.
MR AD OZA for Respondent(s) : 1,
PUBLIC PROSECUTOR for Respondent(s) : 2,
None for Respondent(s) : 3, 5,
MR VIJAY H PATEL for Respondent(s) : 4,
MR VIPUL A MISTRY, ASST. GOVERNMENT PLEADER for Respondent(s) : 6,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 05/04/2007

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioners have prayed

for an appropriate writ, direction and/or order quashing and setting aside the impugned orders dated 8-1-1996, 7-9-1996 and 10-9-1996 passed by the respondent Nos.1 and 3 respectively at Annexure F and H by which the order dated 6-5-1995 by which the petitioners' inter district transferors from Mehsana to Ahmedabad and Ahmedabad to Mehsana came to be cancelled.

2. It is the case of the petitioners that the petitioner No.1 was serving as a Primary Teacher under the Ahmedabad School Board and the petitioner No.2 was serving as a Primary Teacher at Mehsana. Both of them submitted application for inter district transfer and accordingly by order dated 6-5-1995, the petitioner No.1 was transferred to Mehsana and the petitioner No.2 was transferred to the service of Ahmedabad School Board. It is the case on behalf of the respective petitioners that accordingly the petitioner No.1 resumed the duty as a Primary teacher at Mehsana and the petitioner No.2 resumed the duty as a Primary Teacher under Ahmedabad School Board at Asarwa Municipal School No.19, Asarwa, Ahmedabad. After a period of almost 8 months by order dated 8-1-1996, the aforesaid order dated 6-5-1995 by which the petitioners were transferred inter district came to be cancelled. However, the same was kept in abeyance and ultimately by order dated 7-9-1996 passed by the respondent No.1 and by order dated 10-9-1996 passed by the respondent No.3, the order dated 8-1-1986 came to be confirmed and order dated 6-5-1995 came to be

cancelled. Being aggrieved by and dissatisfied with the same, the petitioners have preferred the present Special Civil Application under Article 226 of the Constitution of India.

3. It is required to be noted that while admitting the present Special Civil Application, the learned Single Judge of this Court granted the ad interim order and the respondents were directed not to relieve the petitioners from their posting as on 13th September 1996 and the said interim order came to be confirmed by order dated 13th February 1997 and the said interim order is in operation till date, meaning thereby the petitioner No.1 continued to work as Primary Teacher at Mehsana and petitioner No.2 continued to work as a Primary Teacher with the Ahmedabad School Board. In view of the fact that both the petitioners were protected and they are working at their respective places since 1996 and they have settled with their family members at their respective places i.e. at Mehsana and Ahmedabad, without expressing any opinion on merits and the controversy raised in the present Special Civil Application with regard to authority of the concerned respondents, more particularly, the State Government and others this Special Civil Application is disposed of and the interim order passed earlier which has been continued till date is made absolute. Rule is made absolute. No costs.

(M.R. SHAH, J.)

shekhar